

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.30798 of 1998

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Dated : 18.06.2007

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Between:

-
P.Ram Reddy S/o Poli Reddy

... PETITIONER

And:

-
The Government of Andhra Pradesh,
represented by its Secretary, Revenue Department,
Secretariat Buildings, Hyderabad and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

-
WRIT PETITION No.30798 of 1998

ORDER:

Petitioner claims to be the owner of an extent of Acs.5.22 cents of land in Sy.No.48/24 situated at Kattedan village, Rajendra Nagar Mandal. He alleges that the said land was originally assigned to Poyyala Ramakka and Poyyala Pentamma by the Government on 27.11.1951, after collecting upset price of 16 times the land revenue, under the Laoni Rules, 1950. Thereafter, on 30.11.1967, the said Ramakka and Pentamma entered into an agreement of sale of the said land with the petitioner, and later executed a regular sale deed in his favour on 01.04.1969. Subsequently, the Hyderabad Urban Development Authority acquired an extent of Acs.1.25 cents of the land from the petitioner, and thereafter he also alienated some portion of the said land to others. While so, the second respondent issued a

show cause notice dated 30.07.2006 to the petitioner under Section 3(1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act No.9 of 1977) directing the petitioner to appear for enquiry and submit his explanation as to why the patta certificate given in respect of the subject land should not be cancelled. Aggrieved thereby, this writ petition is filed.

Subsequently, petitioner filed W.P.M.P.No.14175 of 2007 stating that despite the fact that interim stay was granted by this Court on 05.11.1998, the second respondent issued a notice dated 14.03.2005 and subsequently passed an order 29.11.2006 ordering resumption of the land on the ground that the sale in favour of the petitioner is invalid, and hence he sought amendment of the prayer in the writ petition and it has been ordered.

A counter-affidavit has been filed on behalf of the respondents, wherein most of the averments made by the petitioner are admitted, but the only aspect which is controverted is that, the assignment granted to the vendors of the petitioners was only on 20.02.1968, but not in the year 1951, as claimed by the petitioner. The factual aspect that the said assignment was made in favour of the petitioner's vendor on payment of sixteen times land revenue is not disputed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Learned counsel for the petitioner, Sri Ravindranath Reddy, contended that Government has assigned the land in favour of the petitioner's vendors only after collecting upset price from them in the year 1951, at which time Laoni Rules were in force, and there was no condition of non-alienation in the patta, and as such the provisions of Act No.9 of 1977 would not apply. In this context, the learned counsel has drawn my attention to the judgments in ***G.V.K.Rama Rao v.***

***Bakelite Hylam Employees Cooperative House Building Society,
Hyderabad^[1], Nimmagadda Rama Devi V. The District Collector,
Krishna^[2], Ravuri Tulisamma v. The Mandal Revenue Officer,
Nandigama^[3], Rambagh Satyanarayana v. Joint Collector, Ranga
Reddy District, Hyderabad^[4], and Shyam Sunder v. Government
of A.P., Revenue (Assignment) department^[5].***

On the other hand, the learned Government Pleader for Revenue contended that the land in question was assigned to the vendors of the petitioner on 20.02.1968, at which time the rules framed under G.O.Ms.No.1406 dated 25.07.1958 were applicable to the assigned lands and as per clause 6(1) of the said Government Order, the assigned lands are only heritable but not alienable. He further contended that Act No.9 of 1977 prohibits transfer of assigned lands either before the commencement of the Act or after the commencement of the Act and hence the purchase made by the petitioner is contrary to Section 3(1) of Act No.9 of 1977.

In fact, this Court had an occasion to deal with similar aspect relating to the assignment of lands to those who are affected by project. In that judgment, Laoni Rules, 1950, Special Laoni Rules, the Andhra Pradesh Project Affected Lands Assignment Rules, 1961, were referred. In the said case, the petitioner was assigned the land on the ground that he is a project affected person and he was directed to pay market value as determined by the Board of Revenue in 15 instalments and accordingly he paid the same in addition to betterment contribution. Ultimately, this Court held the petitioner therein will not come within the scope of Laoni Rules and his allotment is squarely covered by the terms of the said G.O.Ms.No.1070. This Court further held that when once the petitioner therein was directed to pay fixed market value as determined by the board of revenue in 15 equal

instalments, and the petitioner paid the entire market value in addition to the betterment contribution as termed in the said rules and the Government also accepted the payment, again invoking the Laoni Rules and cancelling the assignment is not warranted.

It is the case of the petitioner that though the land in question has been termed as assigned land, it cannot be strictly said to be assigned, as it is on payment of the land revenue. In the judgments stated supra, this aspect has been dealt with by a Division Bench of this Court in ***Nimmagadda Rama Devi's case (2 supra)***, wherein, after going through various provisions of Act No.9 of 1977, it was held that it is apparently clear that the scheme of the Act is to prohibit alienation of assigned lands except those on payment of market value because the whole idea of the Act is to make free gift of the lands to the landless poor persons, whereas the lands were originally assigned to the assignees as per G.O.Ms.No.1142 dated 18.06.1954 on payment of market value under unavoidable circumstances. It, however, held that the definition of assigned lands makes it clear that the lands assigned to landless poor persons under the rules for the time being in force, subject to the condition of non-alienation and includes lands allotted or transferred to landless poor persons under the relevant law for the time being in force relating to land ceilings, and the word assigned shall be construed accordingly. It was further observed that if there is a condition of non-alienation while assigning the lands or the land is assigned under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, then only it is deemed as assigned land under Act No.9 of 1977. It was also observed that there is no condition barring alienation of lands and on the other hand, the note appended to Condition No.1 of D.Form patta specifically says that this condition will not apply to cases of assignment made on collection of market value under para 1(8) of G.O.Ms.No.1142 dated 18.06.1954, and from the said condition it is

evident that there is no bar for alienation of lands. Therefore, the Division Bench held that the said lands are not assigned lands, and accordingly, the order of resumption was set aside.

Reverting to the case on hand, when once the Government accepted 16 times of land revenue as market value and transferred the land in favour of petitioner's vendors, this Court is of the view that the second respondent ought not to have initiated proceedings alleging that the said land falls within the ambit of Act No.9 of 1977.

At this stage, learned counsel for the petitioner submits that Sy.No.48 consists of more than 300.00 acres and the same was subdivided into fifty subdivisions, that the second respondent initiated proceedings under Act No.9 of 1977, by issuing notice dated 26.06.1998 with regard to Sy.Nos.48/7 and 48/19, that the land holders offered their explanation, and that after verification of file that the market value was paid, he dropped further proceedings, but so far as the petitioner is concerned, he continued the said proceedings and despite the fact that this Court granted interim stay of all further proceedings, again issued notice and passed a final order ordering resumption of the land.

For the foregoing reasons, this Court is of the view that the action of the second respondent can definitely be said to be illegal and arbitrary, and therefore, the impugned notices and proceedings are liable to be set aside.

Accordingly, the writ petition is allowed and the impugned notices dated 30.07.1996 and 14.03.2005 and the final order dated 29.11.2006 passed by the second respondent are hereby set aside. There shall be no order as to costs.

18.06.2007

[\[1\]](#) 1997(4) ALT 304

[\[2\]](#) 1996(4) ALT 325 (DB)

[\[3\]](#) 1991(1) An.W.R.533

[\[4\]](#) 2000(3) ALT 774

[\[5\]](#) 2001 (5) ALD 766